S.B. CRIMINAL MISC. IInd BAIL APPLICATION NO.2686/2006
(Sharvan Vs. State)

Date of order : 7.7.2006

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Suresh Kumbhat, for the applicant.
Mr. L.R. Upadhyay, Public Prosecutor.

I have heard learned counsel for the applicant as well as learned Public Prosecutor for the State and perused the statements of eye witnesses namely Raghunath Singh and Lumba Ram.

It is contended by the learned counsel for the applicant that first bail application was rejected by this Court vide order dated 24.3.2006 and liberty was granted to the applicant to move fresh bail application after recording of the statement of injured Mangilal. It is contended by the learned counsel for the applicant that as per the prosecution case, injured Mangilal is not in position to speak out anything but according to the FIR, there were two eye witnesses namely Raghunath Singh and Lumba Ram at the time occurrence took place. Their statements have already been recorded. Raghunath Singh has not turned hostile so also in the cross-examination of Lumba Ram, it is stated by him that no person at the place of occurrence was armed with 'lathi' though he has been declared hostile. Likewise as per the contention of

the learned counsel for the applicant, in the cross-examination of Investigating Officer, it is specifically stated that in the FIR, Raghunath Singh and Lumba Ram, who were independent witnesses were accepted as eye witnesses and in their statements there is no allegation with regard to inflicting 'lathi' blow by the applicant. It is further contended by the learned counsel for the applicant that no statement under Section 161 Cr.P.C. was recorded nor injured Mangilal was arrayed in the list of witnesses. Likewise, at present as per the prosecution also, though injured - Mangilal is walking but he is not able to speak out anything. Further, it is contended by the learned counsel for the applicant that there is no evidence on record against the applicant to connect him with the crime.

Learned Public Prosecutor opposed the bail.

Taking into consideration the facts and circumstances of the case and without expressing any opinion, I think it just and proper to enlarge the accused-applicant on bail.

Accordingly, the second bail application filed under Section 439 Cr.P.C. is allowed and it is directed that the applicant Sharvan S/o Jeta Ram shall be released on bail (in CR No.364/2005, P.S. Sojat City) provided he executes a personal bond in the sum

of Rs.20,000/- and furnishes two sound and solvent sureties in the sum of Rs.10,000/- each to the satisfaction of the learned trial court for his appearance before that Court on each and every date of hearing and whenever called upon to do so, till the completion of trial.

(GOPAL KRISHAN VYAS), J.

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